

1 VIRGINIA:

2 IN THE COUNTY OF WASHINGTON

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5 VIRGINIA DEPARTMENT OF MINES, MINERALS AND ENERGY

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7 VIRGINIA GAS AND OIL BOARD

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22 Reported by:
23 SONYA MICHELLE BROWN, Court Reporter
24 Rife & Associates
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1 P. O. Box 798
2 Grundy, Virginia 24614
3 (540) 935-5257

4 BENNY WAMPLER: Good morning. My name is Benny
5 Wampler. I'm Deputy Director for the Virginia Department of
6 Mines, Minerals and Energy, and Chairman of the Gas and Oil
7 Board; and I'll ask the Board Members to introduce
8 themselves, please.

9 MASON BRENT: My name is Mason Brent. I'm from
10 Richmond and I represent the Gas and Oil Industry.

11 MAX LEWIS: Max Lewis from Buchanan County. I
12 represent the...as a public member.

13 SANDRA RIGGS: I'm Sandra Riggs with the Office of
14 the Attorney General, here to advise the Board.

15 RICHARD GILLIAM: Richard Gilliam, Abingdon, Coal
16 Industry Representative.

17 TOM FULMER: Tom Fulmer, Department of Mines,
18 Minerals and Energy.

19 BENNY WAMPLER: I'm going to go ahead and skip the
20 first item on the agenda and move to number two (2) on the
21 Board's agenda to begin with, until some other folks get
22 here. For the Board, on its own motion, will consider
23 whether it will initiate rule making in compliance with the
24 procedures set forth in the guideline...in the Department of
25 Mines, Minerals and Energies part...public participation

1 guidelines, and we continued this from August. I'd ask Steve
2 Walls with our Department Office in Richmond to come down and
3 provide the Board some additional information for its
4 consideration of whether or not to initiate rule making. So,
5 Steve if you would, for the record, introduce yourself.

6 STEVE WALLS: Good morning. I'm Steve Walls with
7 the Department of Mines, Minerals and Energy out of our
8 Richmond Office, and thank you very much, Mr. Chairman. What
9 I thought I would do for you this morning is briefly walk you
10 through the current status of the regulatory promulgation
11 process, so that if you do decide to go ahead with the
12 amendment to the regulation, you will have an understanding
13 of the steps that we have to go through, and then suggest
14 that the decisions that you may need to make today, if you
15 decide to go ahead with the regulation amendment process.

16 I do have two (2) handouts here. There has
17 recently been a revision to the Executive Order that governs
18 the state regulatory process issued...now, this version isn't
19 signed, but issued earlier this year by Governor Gilmore.

20 We've also taken this...the Executive Order that
21 governs the process, the State Administrative Process Act
22 that governs the regulation and develop process, and the
23 Department of Mines, Minerals and Energy and its Board's
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1 public participation guidelines, and put together a check
2 list that we use internally to keep tract of the whole
3 process. Now, I would like to hand out copies of that check
4 list also to you so that you get to see the...it's a seven
5 (7) page long check list. So, you get to see the extent of
6 the process that we have to go through.

7 (Tom Fulmer hands out the documents.)

8 STEVE WALLS: Instead of going through all seven (7)
9 pages too, I will just hit on the highlights, if you can call
10 them that in such a complicated process, of what is involved.
11 Looking at both where actions that you'll have to take as a
12 Board, as well as where staff work goes on, and where the
13 public participation takes place. The first step that is
14 going...that is needed in going ahead with the regulation is,
15 again, your decision that you would like to go ahead with the
16 regulation. In this case, I understand that it is at the
17 Board's own motion that it is considering going ahead. At
18 that point, we will draft a proposed Notice of Intended
19 Regulatory Action that would be published in the Virginia
20 Register of Regulations, that's published out of Richmond
21 every two (2) weeks, that would list the topic area that you
22 would wish to cover in the amended regulation. This Notice,
23 though, does go through an administrative review up through
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1 the Governor's office before it does get issued and so that's
2 one hurdle we have to go through before it gets issued.

3 If...pending Gubernatorial approval, that thing
4 gets published, there is a thirty (30) day public comment
5 period during which you have the choice whether you wish to
6 hold a public hearing or not on the subject matter, and I
7 think you can, in deciding that, look at the amount of time
8 you've already had that matter before you and decide whether
9 a public hearing will bring forth any new information, or
10 just accept written public comments for any information on
11 the...on the proposed topic of the regulation.

12 After the public comment period, a regulatory
13 working committee is put together to work out the details of
14 what would need to be proposed to you...back to you as a
15 Board in the regulation. And that's where actual language is
16 drafted. In our public participation guidelines, we say that
17 the working committee is supposed to represent the various
18 interested groups, or individuals, in the topic of the
19 regulation or the regulation amendment. So, we try to bring
20 everybody around the table and work out the language.

21 That language is then brought back to the Board and
22 the Board then has a decision point whether it wishes to
23 proceed with a proposed...the proposed regulation change. If
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1 it decides to proceed, then we as staff have to put together
2 a thick package that goes into the State Department of
3 Planning and Budget and the Secretary of Commerce and Trade
4 and Governor's office. At which time, the Department of
5 Planning and Budget does an economic impact assessment on the
6 regulation and it goes through administrative review.

7 If it comes out of the administrative review with
8 approval, then it is published as a proposed regulation and
9 there is a sixty (60) day public comment period on the draft
10 regulatory language. In which time, the Board needs to hold
11 a public hearing, and it could do that at one of its regular
12 scheduled Board meetings. At the end of the sixty (60) day
13 public comment period, typically we as staff will then take
14 the public comments, and work on proposed responses to any
15 public comments, or if there are issues that haven't been
16 discussed, we can bring those issues back to the Board and
17 get some direction on how you would like to respond, work
18 those up, and make any changes to the regulatory language
19 that would needed and bring the final regulatory language to
20 you for your final decision on proceeding with the final
21 amendments. Upon your approval, it's submitted to the
22 Register of Regulations again in which it's published. There
23 is a thirty (30) day waiting period before it becomes
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1 effective and then the regulation finally becomes effective.

2 Typically the process takes more than a year with all of the
3 reviews and everything else that's built into it.

4 On the check list, I have tried to put in here
5 under the bullets such as on the first page, the different
6 pieces that are involved in each of the packages that goes in
7 at the various steps, and there's a lot of paperwork involved
8 as you can see on here. But it creates a full record of the
9 process, and so that if you want to go back any time through
10 the process and look at where you are at and why you have
11 gotten to where you are, there's a full record. There's a
12 full record for the public to be able to review and a full
13 record for all the administrative reviews that goes...go on.

14 I guess some of you have been through the process
15 already in the last time the Board amended its regulation.
16 The main difference between the previous process and this new
17 process under Executive Order 2598, is that there are some
18 deadlines set out on the time frame that these actions have
19 to take. As I said, it often takes over a year for the whole
20 process to take place and so the state...the Governor is
21 trying to make an effort to shrink it as much as he can, but
22 still leave time for public comment at various stages through
23 the process, and also time for the Board to meet and consider

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1 things, and staff to do their work. But the time frames in
2 there are that if it goes ahead and a Notice of Intended
3 Regulatory Action is published, the proposed regulation must
4 be submitted to the Department of Planning and Budget within
5 a hundred and eighty (180) days of the date of the end of the
6 public comment period. The planning budget has forty-five
7 (45) days to complete their economic impact assessment, and
8 so it gets to the decision point no later than at the end of
9 those time periods.

10 I don't know that it is worth going through in
11 detail what all of the different components of the packages
12 are, unless you have any questions about them. Again, we'd
13 left the check list with you so that if you are having
14 trouble sleeping some nights, you can pull it out and take a
15 look at it.

16 BENNY WAMPLER: Any questions?

17 STEVE WALLS: But, if you have any questions, I'll
18 be glad to answer them.

19 (No audible response.)

20 STEVE WALLS: Well, I think the decisions that you
21 need to make today then are, first, whether you want to
22 proceed with the regulation change. If so, you would give
23 authorization to us and we would put in the draft Notice of
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1 Regulatory....Notice of Intended Regulatory Action package to
2 the Secretary of Commerce and Trade's office; and then
3 subject to their approval, it would be published, have a
4 thirty (30) day comment period and then whether or not you
5 would authorize the Department to go ahead and establish the
6 regulatory working committee to then bring the...the parties
7 that are on the table come up with draft language to bring
8 back to you.

9 One other important point is that the issues that
10 are spelled out in the Notice of Intended Regulatory Action
11 limit the issues that can later be considered in the
12 regulatory proceeding, which is again a little different from
13 before. You can not bring new issues into the process later
14 on. So, crafting the statement of what you wish to consider
15 on the regulatory action at this stage is particularly
16 important because that...you are limited to only those
17 issues.

18 The other decision is, if you feel like it is worth
19 holding a public hearing on the Notice of Intended Regulatory
20 action comment period, typically, Boards and our department
21 does not hold a public hearing at that stage, because we are
22 going to try and bring everybody who is interested around the
23 table in the regulatory working committee. But through the
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1 written comments, people can request that they want to be at
2 the table when the subject matter is discussed.

3 And then, if you have any direction to us as to who
4 you would think should be best on the working committee, that
5 would be something that you would want to address today,
6 also.

7 BENNY WAMPLER: Any questions of Steve?

8 (No audible response.)

9 BENNY WAMPLER: Before we make any decision, let's
10 go ahead and ask then if there are anyone present today that
11 have any recommendations to the Board as to whether or not to
12 proceed and if...if to proceed, any suggestions on what needs
13 to be included?

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15 MARK SWARTZ: Yes, if there is a feeling that...Mark
16 Swartz on behalf of Pocahontas Gas Partnership and Buchanan
17 Production. I think that we need to develop a process here,
18 and I think we can develop one without regulatory action, or
19 we can develop one with regulatory action. So, I guess my
20 view is, if the Board would prefer to do it on a regulatory
21 basis as opposed to a order basis, I would have some minimal
22 comments. Basically, what I would want to add, Steve has
23 indicated that you need to craft your notice precarefully

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1 and, I think, just judging from the docket today, which
2 states the issues at least up to this juncture, I think you
3 are kind of leaving the bank out of the process. I think
4 really what you need in a regulatory setting, if you are
5 going to do that here, is you want to make sure that you are
6 able to assign co-responsibility to the operator and the
7 escrow agent in the record keeping process, so that you know
8 who is responsible for what and maybe flush those
9 responsibilities out in greater detail. I mean, to give you
10 an example, I mean, if you want a monthly ending balance in
11 every account, you probably need to have a regulation that
12 says that. If you want accounting to occur with the escrow
13 agent on a comparable basis that royalty statements are
14 issued, which is the tract, you probably need to address
15 that. So, my comments really are limited to what I have just
16 said, that if you are going to do regulatory action, I would
17 think you want to address that interplay and enable yourself
18 ultimately to be pretty specific. This is not rocket
19 science. I mean, we just need to develop a procedure that
20 people are aware of and everybody knows which piece of the
21 puzzle they are supposed to do. But, you know, let's make
22 sure it is broad enough so that we get, you know, where we
23 want to be.

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1 BENNY WAMPLER: Any other suggestions or comments?

2 JILL HARRISON: Jill Harrison. I represent
3 Garden...good morning.

4 BENNY WAMPLER: Good morning.

5 MASON BRENT: Good morning.

6 JILL HARRISON: Jill Harrison. I represent Garden
7 Realty Corporation and Hugh McRae Land Trust. My clients at
8 this point have no real preference for regulatory rule making
9 or whether the Board wishes to enter an order. The only
10 request that we would have at this time is that the process
11 be set down somehow, some way, so that information is
12 available for anyone who needs to come before the Board.
13 There are many individuals, families, that aren't as
14 organized as Garden Realty Corporation that have contacted
15 me, and I have frankly told them that at this point, I would
16 not start anything until we see what the process is going to
17 be. I have told them to save their money, and their time, at
18 this point. So, that would only be our request, if we could
19 just have a process that everyone knows, and everyone knows
20 what the time frames are on following the process.

21 The other...I guess I have a question. It's my
22 understanding of the general rule making process and how
23 things must proceed, but while if the Board chooses to follow
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1 the rule making process, it is my understanding that that
2 would not be a hold on individuals proceeding to try to
3 obtain their money because otherwise...is that correct?

4 BENNY WAMPLER: I affirm that. That's correct.

5 JILL HARRISON: That's all the comments and
6 questions I have.

7 BENNY WAMPLER: This is just something that we are
8 considering at this point, and it's not intended that this
9 would in anyway impede ongoing efforts.

10 JILL HARRISON: All right. Thank you very much.

11 BENNY WAMPLER: Any other questions or comments?

12 MASON BRENT: I would like to have a little
13 discussion here amongst us about the pros and cons of
14 approaching this by order or by regulation. I know we talked
15 about that before, but I would like to be refreshed on the
16 pros and cons of that. Sandy, what...can you give me some
17 comments on what you see as the pros or cons of going by
18 order or by regulation?

19 SANDY RIGGS: If you implement regulations, they
20 become...have the same affect as law, as if you have
21 supplemented the statute, as long as you don't abridge the
22 statute. They are out there for everybody to know.
23 Everybody knows what the rule of the game is. They are

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1 published. You have an opportunity for everybody to
2 participate in that process, comment on it, flush out all the
3 issues so everything is out on the table. When you do it by
4 order, you have to do it on a case by case basis, so that
5 every time a new group of advocates come before you seeking
6 this remedy, you rehash the issue over and over and over
7 again. In order to have the operation of law, you have got
8 to have it by regulation.

9 JILL HARRISON: May I ask just a couple of questions
10 about that?

11 (No audible response.)

12 JILL HARRISON: The Board has in the past entered
13 field rules by order and it's my understanding, and again,
14 I'm not here at every hearing, that those issues are not
15 flushed out again and again and again. So, that if a Board
16 order were set up setting up the process, it...I agree,
17 Sandy, at some points, it may...you may have to discuss some
18 of the issue, but I don't know that it would necessarily lend
19 itself to being flushed out each time that you have to follow
20 the process.

21 I guess, one question I have is, if the regulations
22 are set up like the statutes...they are very rigid, and to
23 change that regulation if you determine that's necessary, it

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1 is my understanding you basically have to follow the process
2 again. If you had a Board order, the time within which you
3 would need to officially, and correctly, change the Board
4 order would not be there.

5 STEVE WALLS: Maybe I can address that a little
6 bit---.

7 JILL HARRISON: Okay.

8 STEVE WALLS: ---in that I think you're correct in
9 that. If the regulation is set out, it has to be...you have
10 to go through the administrative process in order to change
11 the regulation; however, the Board does have flexibility
12 within the confines of what the code authorizing them to do
13 to create a process that has flexibility in it, or has no
14 flexibility in it. But, if the Board is concerned that not
15 having...I mean, not allowing flexibility to deal with some
16 individual circumstances that might come forward, wouldn't
17 tie its hands too much, it does have authority to set up a
18 general process and time frame for that to happen, but still
19 leave room for some of the individual concerns that might be
20 brought forward. So, it doesn't necessarily imply that it
21 has to be a very closely tied down step by step...you know,
22 every step of the way covered process. It really is up to
23 the Board.

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1 JILL HARRISON: So, there could be some discretion
2 in the Board as far as the ability to change the regulations?

3 STEVE WALLS: Well, not to change the regulation---.

4 SANDRA RIGGS: To rule on a case by case.

5 STEVE WALLS: ---but you would have to set up the
6 regulations to allow some...to state what discretion the
7 Board wishes to maintain...to keep for itself on a case by
8 case basis.

9 SANDRA RIGGS: The other piece that fits in to all
10 of this is the escrow agent's contract, because a large part
11 of coming up with these numbers, as Mark has just inferred,
12 is that it has got to be a cooperative effort between the
13 escrow agent and the operator because some of the numbers
14 come out of the...of each of their systems. So, there has to
15 be a reconciliation, a process that reconciles those two (2)
16 different accounting systems.

17 That...the escrow agent's relationship to the Board
18 is by contract, which was done competitively, bid through the
19 RFP, and that contract comes up again in June of this coming
20 year, I think. Certainly, at the time the originally
21 contract was entered into, all of these problems were not
22 foreseen. We thought we would have a simple system where you
23 took a percent interest in a drilling unit, applied it to a

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1 number and came out with the answer, and that has not proven
2 to be the case. So, we are going to have to revisit that
3 contract as well. So, all of these things have to be brought
4 in concert with each other, so that whatever this process is
5 going to be, everybody understands what their role is in the
6 process and how it all comes together.

7 JILL HARRISON: And Sandy...this is a very good
8 point that Sandy has made, and that's really my concern
9 because this is such new territory for the Board if the
10 regulation process is followed. And again, I don't have any
11 real leaning one way or the other, but my main concern about
12 following the regulation process would be if situations came
13 up that we had not anticipated, if we would have the
14 flexibility to deal with that, but if that can be built into
15 the regulations, then that would probably address my concern.

16 SANDRA RIGGS: I think it's probably going to end up
17 being a little of each and a lot of both, you know. It's
18 going to be the contract, it's going to be regulations and
19 it's going to be orders. But there are certain things that
20 need the operation of law. There are certain
21 responsibilities that need to be assigned, and that I'm not
22 so sure you can assign responsibilities on a order by order
23 basis, in order to get the continuity you need at the end to
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1 come out with the result that you need, and that's the record
2 keeping responsibility and the reporting responsibility.

3 STEVE WALLS: I think there's also an issue that, if
4 you are going to be affecting the rights of a group of
5 parties, you may want to consider doing that by regulation.
6 Where an order is looking at individual case by case, and as
7 you have a broader group of people that you are affecting,
8 that generally is done in the state system through either
9 regulatory...I mean, legislative action in law or regulatory
10 action taken by administrative body such as the Board. And
11 as much as the case...the cases, I guess, do begin to set a
12 standard of approach for the various cases, if you are going
13 to be, again, affecting the rights of these groups of people,
14 then a regulation may be more appropriate for them.

15 SANDRA RIGGS: The field rule example, there is
16 specific statutory authority for the Board to enter field
17 rules. We don't have specific authority to enter an order
18 that would apply to all poolings in the future, or in the
19 past. I mean, you would have to go in and modify each and
20 everyone, or incorporate that into the pooling language
21 itself, which ends up being...making these orders just...I
22 mean, they are getting bigger by the day. But, I think if
23 there is certain common things that are going to apply to

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1 everybody, like responsibility and reporting requirements,
2 but those kinds of things really need to be laid out in the
3 regulation and implemented through the contracts, so that
4 everybody knows exactly what their responsibility is up front
5 before the pooling order even hits, is what I'm saying.

6 BENNY WAMPLER: Any other questions or comments from
7 anyone?

8 JILL HARRISON: Thank you.

9 BENNY WAMPLER: Thanks, Jill. Any other comments or
10 questions from members of the Board?

11 (No audible response.)

12 BENNY WAMPLER: I guess, we have two (2) items that
13 need to be...to be decided. First, proceed or not. Second,
14 auth...whether or not you are going to authorize the
15 department to set up a work committee, and then if you have a
16 recommendation on representatives, or let the department use
17 its discretion on that, and provide you with that information
18 and update on ongoing basis throughout the process.

19 MAX LEWIS: I'd like to make a motion that we
20 proceed with it.

21 BENNY WAMPLER: Okay. I have a motion to proceed
22 with the regulatory process.

23 MASON BRENT: I second.

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1 BENNY WAMPLER: Second. Any further discussion of
2 that?

3 MASON BRENT: The only discussion that I would have
4 there is that I hope we would proceed in a manner to limit as
5 much as possible the issues that are addressed by the
6 regulation and leave as much...I mean, we talk about making
7 it flexible, but it is awfully difficult to make it flexible
8 if you don't know what it is you are going to need to deal
9 with in the future, what kind of flexibility you put in
10 there.

11 MAX LEWIS: Yeah, that's true.

12 BENNY WAMPLER: Right.

13 MASON BRENT: So, if we could keep it to a minimum
14 number of issues, such as who is responsible for this, that
15 and the other, and leave to the Board's discretion a lot of
16 the other issues to give us the flexibility and the latitude
17 to adopt each and every case that comes up. That would
18 be...that would be my intent.

19 MAX LEWIS: I agree with that.

20 BENNY WAMPLER: Okay. That's part of the motion
21 then. Any further discussion?

22 SANDRA RIGGS: Won't we have to come back to the
23 Board with that language before it actual gets published so
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1 you will get a chance to look at it?

2 STEVE WALLS: Well, I think that's helpful to get
3 some guidance as to the direction.

4 BENNY WAMPLER: On---.

5 CLAUDE MORGAN: Would that be coming back in the
6 form of a regular monthly meeting for that to be a topic for
7 discussion?

8 BENNY WAMPLER: Yes. Yes, it will.

9 BENNY WAMPLER: Any further discussion?

10 (No audible response.)

11 BENNY WAMPLER: All in favor signify by saying yes.
12 (All members signify yes.)

13 BENNY WAMPLER: Opposed say no.

14 (No audible response.)

15 BENNY WAMPLER: Okay. We will proceed. As to the
16 regulatory work committee. Now, does the Board want to make
17 that selection, or you want the department to select the work
18 group.

19 MAX LEWIS: I would like to make a motion to make
20 the department.

21 MASON BRENT: Can that be subject to Board approval?

22 MAX LEWIS: Yeah.

23 MASON BRENT: Could they provide that to us?

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1 MAX LEWIS: Uh-huh. Subject to Board approval.

2 BENNY WAMPLER: Uh-huh. Yeah. It would be helpful

3 if the Board has any recommendations...specific

4 recommendations, that we get that too, so we can go ahead and

5 we'll provide a list and get that around to the Board.

6 MASON BRENT: Okay.

7 BENNY WAMPLER: Any further discussion on that?

8 MAX LEWIS: Well, I would suggest that the Chairman

9 be on that Board as one of the members of that Board.

10 MASON BRENT: If he's got the time.

11 MAX LEWIS: I'd like that to be in that motion.

12 STEVE WALLS: Typically on these types

13 of...typically---.

14 MAX LEWIS: Can it be in that motion?

15 STEVE WALLS: ---on these types of regulatory work

16 committees, any of the Board members are welcome at any of

17 the meetings, also, and are encouraged to attend if they...if

18 they have the time to.

19 BENNY WAMPLER: Would you like to chair that

20 committee?

21 MAX LEWIS: No.

22 BENNY WAMPLER: Could I have a second on that?

23 MASON BRENT: Second.

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1 BENNY WAMPLER: Any further discussion?
2 (No audible response.)
3 BENNY WAMPLER: All in favor signify by saying yes.
4 (All members signify yes.)
5 BENNY WAMPLER: Opposed say no.
6 (No audible response.)
7 BENNY WAMPLER: Did I miss anything, Steve? Is that
8 everything we needed to do?
9 STEVE WALLS: Does the Board wish to proceed through
10 the Notice of Intent period without a separate public hearing
11 at that stage and then leave public hearing for the proposed
12 regulation stage?
13 (No audible response.)
14 STEVE WALLS: I don't know that you need a motion on
15 that, but that would be just guidance as for us going ahead.
16 BENNY WAMPLER: Just guidance for it.
17 MASON BRENT: I'd say yes, that we would want to
18 avoid that.
19 MAX LEWIS: Avoid a public hearing?
20 BENNY WAMPLER: Well, we will have a public hearing
21 at the point in time you have a draft set of regulations for
22 them to look at.
23 MAX LEWIS: Yeah.

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1 STEVE WALLS: But...and treat the public
2 participation as trying to get the people around the table in
3 the regulatory working committee as the key piece for the
4 public participation of the develop process.

5 BENNY WAMPLER: For those of you here, I'm looking
6 for volunteers on the committee. Jill, Claude, Mark and the
7 bank.

8 STEVE WALLS: Just looking over my notes here, one
9 other point that we need to put in the submittal that we send
10 in, is a statement of why the regulation is essential to
11 protect the public health, safety and welfare, or for the
12 sufficient and economical performance of an important
13 governmental function. I just wanted to...as having thought
14 about this before, I think there are two (2) issues here in
15 particular that I understand have come before the Board.
16 One, we are dealing with people's property here, and that
17 is...it is an important governmental function that the Board
18 has been charged with in determining the fairness and the
19 allocation of people's property, and it's essential that this
20 be done in a...in a fashion that clearly gives people a
21 chance to have their interests heard and be fair to all the
22 parties. I think that's maybe the key thing that we will
23 want to focus in on there. I just wanted to see if there's

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1 anything else any of the Board---.

2 BENNY WAMPLER: And our desire to be more efficient
3 with the process.

4 STEVE WALLS: ---and be more efficient with the
5 process. Anything else any of the other Board members had
6 that they would wish to add into that?

7 (No audible response.)

8 STEVE WALLS: The other point that's in here is, how
9 the Board has considered, or will consider, less burdensome
10 and less intrusive alternatives to the...if you had any
11 alternatives specifically set out now, and it strikes me that
12 you are asking us to consider kind of the least intrusive
13 approach already, in that as the regulatory working
14 committee, you want us to look at the various approaches and
15 look at what is least intrusive, and then so we will bring to
16 you the alternatives that were considered, and why we are
17 making a recommendation of one approach or the other. Does
18 that process seem acceptable to the Board for identifying the
19 alternative approaches?

20 (No audible response.)

21 STEVE WALLS: I've seen some heads shaking yes. So,
22 again, I think that's the procedure that we will follow then
23 in working with the regulatory working committee. And I

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1 think we have got a fairly clear picture then, as much as can
2 be, of the issues, and we will try and craft the language so
3 that it can bring out the role of all the various parties and
4 not just be limited to the operators or the Board as far as
5 crafting the issues, so that they can be on the table for
6 consideration, and then look at the direction of taking the
7 least intrusive approach. Thank you.

8 BENNY WAMPLER: Thank you, Steve.

9 MASON BRENT: Thank you, Steve.

10 BENNY WAMPLER: Very good. The next item on the
11 agenda...we go back to number one. The Virginia Gas and Oil
12 Board will reconvene the docket numbers for further
13 consideration of applications filed by Hugh McRae Land Trust
14 and Garden Realty for the calculation and thereafter,
15 disbursement of the claimants funds. We had asked our escrow
16 agent to come back to the Board today to talk with us about a
17 methodology. So, I'll ask Mr. Ditz to come forward at this
18 time and introduce yourself. We'd ask the other parties that
19 wish to address the Board in this matter to come forward now,
20 too.

21 DALE DITZ: Thank you, Mr. Chairman. My name is
22 Dale Ditz. I'm Vice President Regional Trust Officer with
23 First Virginia Banks, which is the designated escrow agent

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1 for these funds at the present time. Let me...let me say
2 this is my first appearance at this Board and I came this
3 morning with some trepidation. I'm not out of here yet. But
4 I'm pleased to see that there is some sense of both humor and
5 responsibility in the Board's hearing. So, I will do what I
6 can to help resolve what's going on here now. I'm afraid it
7 may not be enough today, but I take that as it comes.

8 BENNY WAMPLER: Very good. Sandy, did you want to
9 address the Board on anything before we get---?

10 SANDRA RIGGS: Well, since the last hearing, I think
11 everybody has been feverishly working to try to...to bring
12 the pieces of the puzzle to the table, and the pieces that I
13 have worked on...I've distributed to all the Board members
14 copies of a proposed order that sort of fill in the blank
15 kind of thing that I think brings us to where we are today
16 by reciting the past history of each of these specific
17 applications. The definitions of jurisdiction that the Board
18 has made thus far and the definition of what entitlement was
19 and sort of where we all are and that's just by way of
20 reminder. It doesn't have anything to do with coming up with
21 the number which is what I think Mr. Ditz is here about.

22 BENNY WAMPLER: Right.

23 SANDRA RIGGS: But in case you need those for
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1 reference, they're here, in case we need to go back on any
2 particular application as we move through this process and
3 look at the actual application.

4 BENNY WAMPLER: Mr. Swartz, did you have anything
5 that you wanted to---.

6 MARK SWARTZ: The operator has done a fair amount of
7 work, some of which I participated in as most of which Bob
8 Looney and Les Arrington and Claude Morgan have done, but we
9 have...we picked a unit that was relatively simple from the
10 collection of units and tried to develop a process that
11 worked for us as operator. Bear in mind, we are not the
12 bank, but we felt like the way we left it at the last meeting
13 that I felt like our direction was to come forward with a
14 process and I won't say that we have...that the bank has some
15 how participated in this process in the sense of signing off
16 on it, but Dale and I have spoken and I had a lot of
17 questions with regard to their statements. We've shared
18 information with them. You know, he has been very
19 forthcoming and, you know, at some point if it's appropriate,
20 I can kind of share with you an example of a reconciliation
21 of payments with regard to tracts in a unit and then net
22 income on a monthly basis to kind of give you a feel for how,
23 I think, ultimately, you know, we could calculate...we could

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1 get to the number we need to fill in the blank. So, I don't
2 know if it's---.

3 BENNY WAMPLER: Well, that's what we are trying to
4 arrive at. We want a methodology when we leave here today of
5 distribution. If there's any way we can get there, that's
6 what we want. So, which ever one of you...Dale, if you want
7 to go...take the lead and let---.

8 DALE DITZ: I'm not at all sure that we're...that
9 we're really ready to come up with that much of a number.
10 Let me...let me mention one other thing too, and that was
11 discussion earlier about the contract involved on this, and
12 we find ourselves in an unenviable position of having been
13 given a set of information to work with that is not now
14 adequate to come up with the numbers that we are being asked
15 for. So, we are having to go basically outside of that
16 contract. I'm not opposed to doing that. We will work
17 however we can to make this happen. But it was never set up
18 that way to begin with and it is very difficult at this point
19 to go back into as was suggested differing accounting systems
20 and reconcile back to a number that never existed that we've
21 got to try to manufacture. What we've been able to, with the
22 operators help, is in our historical records is produce daily
23 transactional record of all of the activity that is taking

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1 place from the beginning of this account to present time on
2 a...I'm not clear on all the...on a unit basis, but the
3 information that we were given is the escrow agent up until
4 some information ...some new information had just came, I
5 think, was last week, was not broken down by tracts. So, we
6 were unable to provide that information. Now, we have, or we
7 think we can obtain from the operator, the specific tract
8 information that does match with our detail on the units.
9 Now, that's going to require going back in and making sure
10 that we are separating out from our unit accounting into a
11 tract basis, and then tracking through the income that has
12 accrued on those deposits that have been made over that
13 period of time. It can be done. It is not going to be a
14 short process, but it can be done and we can...we have those
15 records available to us on all of the units that we have any
16 interest in. So, that can be done and we are prepared to do
17 that. But we just...we don't have all the information in our
18 hands at this point.

19 BENNY WAMPLER: Okay. You are aware that I have
20 authorized Mr. King to...for your bank to step outside that
21 contract and do whatever you need to do to produce this?

22 DALE DITZ: Uh-huh. Yeah. Yeah. And we will.
23 What we...I guess my suggestion, or my recommendation of what
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1 I think is going to be the quickest and easiest way to do
2 this, depending what computer resources are available, is
3 probably go to an independent CPA, someone who is familiar
4 with Oil and Gas accountings so that he can read...he or she
5 should I say, so they can read the records that are being
6 produced by the operator, and tie them into the records that
7 the bank has produced, and try and make a match out of the
8 two (2). I...quite frankly, I'm not sure I have either the
9 personnel or the time in my bank office to do that and I'm
10 not sure that the operator does either, but we should be able
11 to get a hold of somebody that can do that in a relatively
12 short form if we have all the proper detail to provide to
13 them and I believe we do.

14 BENNY WAMPLER: Mr. Swartz?

15 MARK SWARTZ: Let me show you what we done as an
16 operator to try and get to a process and, you know, we have
17 the time. We have spent a lot of time on this since the last
18 meeting. This is a serious issue that needs to be resolved
19 expeditiously and, you know, we feel that we are very close
20 to, if not already, at the point where we have developed all
21 the information that the Board needs and the bank needs to
22 reconcile their records to ours, and let me share with you
23 what we've done on one unit to kind of show you at least our

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1 thinking. I'm going to give you three (3) sets of documents.

2 (Mr. Swartz hands out the documents.)

3 BENNY WAMPLER: Miss Harrison, I'm not trying to
4 leave you out of the discussion---.

5 JILL HARRISON: Just go right ahead, Mr. Chairman.

6 BENNY WAMPLER: ---just seeing what we're...what we
7 can get out of these folks here today.

8 MARK SWARTZ: The single page spreadsheet with the
9 really small numbers is a...is data that we have retrieved
10 from our royalty accounting which indicates for each tract
11 the royalty that was paid for each tract and on the date the
12 check was issued so that we can track from our record the
13 historical dates on which we made payments. Now, this is
14 important only really as a cross check to make sure that the
15 bank has picked up the payments that we think we've made---.

16 BENNY WAMPLER: Right.

17

18 MARK SWARTZ: ---because they are showing deposit
19 dates, but this is a way to reconcile our royalty records
20 with regard to these tracts to their records. Then you've
21 got the banks...on this particular NELW9 account, you've got
22 their records which are chronological, show royalty income,
23 show...royalty income would be the royalty that was paid. We

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1 show investment income or interest income on royalty and show
2 fees and if...and the goal was to try to compare accounting
3 records with regard to royalty paid to their records showing
4 royalty received. We had some questions. We are down to one
5 five hundred dollar (\$500) check out of six (6) years. So,
6 we have...you know, we have brought our records into...into
7 parity, essentially and we'll figure that one out. We had
8 some other open issues which we have...we have resolved and
9 our records agree. So, that's good news. But that...you
10 know, that reconciliation needs to occur as a starting point.
11 What we then did, and this addresses allocation. If you go
12 to the two (2) page spreadsheet, what we've done on this
13 spreadsheet...there are two (2) tracts. The second column is
14 amounts to escrow 3A. That is a tract 3A and then the fourth
15 column is amount to escrow 5A, which is a different tract,
16 and you will see here that deposits begin being made to tract
17 5A before tract 3A and you will see when deposits to tract 3A
18 commenced. It's important to know that, because at that
19 point in time you need to do an assignment of income to tract
20 5A which, you know, is not relevant to earnings on 3A and
21 this allows us to identify those periods of time when there
22 would not be parity in terms of deposit and create a number
23 so that we can go forward with a parity number. So,

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1 essentially, I mean, to keep it really simple, what this
2 shows on the third and fourth lines, the last column, there
3 is some minimal amount of income that would belong to 5A, and
4 needs to be allocated to 5A as of December of '92, for a
5 going forward basis to get parity here. Then as you come
6 down, there was...there was royalty paid into suspense under
7 the leases at issue which gave my client an opportunity to do
8 that. It shows one payment in the middle of the suspense
9 period and then shows some pretty significant checks on both
10 tracts being paid in October of '96, and then continuing
11 payments coming forward. But...and then lastly I would say
12 with regard to this spreadsheet, what I have done is I have
13 taken the income less fees from the bank's report as best I
14 can, and I've a number of conversations with Dale to answer
15 questions that I've had because their reporting is not
16 necessary transparent. Okay. At times you see an entry and
17 you...what is that and Dale has been forthcoming and has been
18 able to answer my questions and what I have tried to do is
19 take the income received in any month as shown by their
20 statement and deduct all fees debited in that month to get a
21 net income number in that particular month and occasionally
22 you'll see the fees exceeded income, but generally speaking
23 it did not; and you'll see at some months, depending on the

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1 nature of the investment, you know, is pretty significant, in
2 most months the income is pretty minimum. But I have tried
3 to generate for each month that number. We had talked when
4 we were together last, and at a meeting that we had a couple
5 of months ago with Sandy and Tom and Dale was there and
6 William King was there, Claude Morgan and I were there and
7 I'm not sure who else, but we talked some about maybe using a
8 rate of return on an annual basis that would be calculated by
9 the bank and supplied to us. At least, this is
10 our...speaking for myself and for my clients, I don't think
11 that's going to work. I mean, I think you literally have to
12 do what we've done here in this example and that is calculate
13 a net income figure on a monthly basis and then deal with
14 that. It just...I don't see how you can do that. If you can
15 come up with a way, bless you.

16 DALE DITZ: It would be difficult.

17 MARK SWARTZ: So, where are we? We have done the
18 same spreadsheet and we have misspelled (inaudible) at the
19 top probably every time because computers are wonderful that
20 way. But we have done the same spreadsheet with regard to
21 every tract that's noticed today for hearing and have
22 provided that information to the bank or can provide it today
23 again. So, we have reconstructed all that information. We

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1 have not done the reconciliation on every account, because we
2 wanted to kind of do this spreadsheet and get a feeling for
3 whether or not this was...this exercise needed to occur,
4 because it is a lot of work. I mean, this is the simple
5 tract, and if this seems to make sense to you all, then we
6 would undertake to...I mean, I think we've...one of Les'
7 assistants is pretty up to speed now on this in terms of
8 getting our reconciliation, at least. So, if this is the way
9 you would prefer to proceed on this, I think we can...we've
10 got the data and we can do it. You know, I think at some
11 point the bank needs to be in a position to sign off on all
12 of this, but, you know, I can't...I can just tell you that
13 the operator takes it seriously. We've done a lot of work.
14 We feel like we are in a position on all of these units to
15 cough up the numbers that everybody needs to go forward
16 today. I mean, we have them.

17 DALE DITZ: I may have overstated there. I did not
18 realize that the operator was willing to put that work into
19 it. That's why I suggested going outside to do that. I was
20 not aware they were able and willing to do that. So, if we
21 can get this kind of information, this kind of reconciliation
22 out of their computer system, we have an opportunity, as Mark
23 suggested, to go through and confirm that those numbers are

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1 accurate and in fact, match our records, I think that may be
2 an appropriate means to follow.

3 BENNY WAMPLER: Mark, do you...how long do you think
4 it would take you to reconcile these numbers? You say you
5 have the numbers for each tract?

6 MARK SWARTZ: Well, there are two (2) problems here
7 and I'll ask...I'll come back to your question. The income
8 less fees column is a number that really needs to come from
9 the bank.

10 BENNY WAMPLER: I understand.

11 MARK SWARTZ: I'm guessing. Okay. I mean, I'm
12 looking through these entries. I'm doing the best I can.

13 BENNY WAMPLER: You're saying he needs to verify
14 that these are accurate?

15 MARK SWARTZ: Well, I think they just need to tell
16 us what they are.

17 BENNY WAMPLER: Okay. I understand.

18 MARK SWARTZ: They are in their records. They are
19 in their data base. They ought to be able to deal with that.

20 BENNY WAMPLER: I agree with that.

21 MARK SWARTZ: You know, I...we already have this
22 kind of information in our possession in this form, right?

23 LESLIE K. ARRINGTON: That's correct for NE9.

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1 MARK SWARTZ: Right. Well, I think for all of the
2 units.

3 LESLIE K. ARRINGTON: All the units but it's not---.

4 CLAUDE MORGAN: Not in that exact format.

5 LESLIE K. ARRINGTON: ---not in that format.

6 MARK SWARTZ: It is not exactly. But the data...we
7 have the data and we have them chronologically organized.

8 LESLIE K. ARRINGTON: We will need a copy of this
9 for every---.

10 MARK SWARTZ: Okay. And then we need a copy of the
11 bank statement for every unit, which we don't yet have.

12 DALE DITZ: We have that. We will make it available
13 immediately.

14 MARK SWARTZ: And if we have that, I think Kathy
15 can, you know, take our data base, create this kind of a
16 spread sheet, you know, do the reconciliation, flag...what we
17 did basically is, we just flagged the questions that we had
18 and got with Dale, got with our backup and our, you know,
19 zeroing in on...well, we are down to one question and then
20 the bank needs to come up with this last column. I mean, I
21 don't think we should be computing that number. They
22 understand their statements in terms of income allocation and
23 redirected income and so forth far better than we do and I
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1 think that component needs to come from them on a monthly
2 basis.

3 DALE DITZ: We can do that.

4 MASON BRENT: So, the answer is, if you had these
5 bank statements tomorrow, how soon can you come up with all
6 that information?

7 MARK SWARTZ: I'm not sure we can finish all of them
8 in a month. But, I mean, we could probably have most, if not
9 all of them, done in a month.

10 DALE DITZ: I'm not even sure how many there are
11 this being---.

12 JILL HARRISON: At this point there are seven (7).

13 DALE DITZ: Seven (7)?

14 SANDRA RIGGS: Six (6).

15 JILL HARRISON: Well, no, six (6). R-25 came out
16 last month.

17 BENNY WAMPLER: Six (6), yeah. There's six (6)
18 left.

19 DALE DITZ: That should not be impossible---.

20 MARK SWARTZ: Now, we've got a process now. You
21 know, part of the...you know, its learning curve going to
22 every item line by line which all of us had to do to teach
23 somebody else how do it on a cost effective basis. But we've
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1 done that. So, I'm, you know---.

2 MASON BRENT: I'm really encouraged with what I see
3 and I hope you'll...you'll further fuel the fire of my
4 enthusiasm by telling me you can get it done by next month.

5 MARK SWARTZ: Well, I think...you know, we're...it
6 may not...I'm not going to guarantee we are going to have all
7 of them done, but we will have most, if not all of them, done
8 I would think, by the end of next month.

9 DALE DITZ: I agree.

10 SANDRA RIGGS: One other question. In everyone of
11 these that are docketed today, there is also a pending
12 application from Torch Trust. As you're going through this
13 process in these same drilling units, are you going to
14 address those or are you...or is it...is there any efficiency
15 to addressing those simultaneously so we don't---?

16 MARK SWARTZ: Yeah, there's a...well, there's a cut
17 off date, I suppose. But yeah, we need to calculate that.

18 JILL HARRISON: I would strongly encourage that, if
19 possible.

20 MARK SWARTZ: We have...there is an assignment as of
21 a date. We're aware of that. I'm not sure that I---.

22 DALE DITZ: I'm not aware of that part of it, but
23 I'm---.

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1 BENNY WAMPLER: That shouldn't be a problem for you?

2 DALE DITZ: I wouldn't think so, no. If we've got

3 numbers and dates, we should be able to make them work.

4 SANDRA RIGGS: It just means additional tracts

5 within the same drilling unit accounts.

6 MARK SWARTZ: No.

7 JILL HARRISON: Six (6)...six (6) of the thirteen

8 (13).

9 MARK SWARTZ: It's just somebody else to go with the

10 piece of the pie as of the date.

11 SANDRA RIGGS: Same tracts?

12 MARK SWARTZ: There was an assignment...yeah, it is

13 a purchase of an interest.

14 SANDRA RIGGS: Oh, okay.

15 MARK SWARTZ: So, it is not a----.

16 SANDRA RIGGS: Yeah, I know that.

17 MARK SWARTZ: ---it wasn't a straight up sell

18 either.

19 SANDRA RIGGS: But then it created other overlaps

20 that I thought were...okay. Maybe I'm wrong.

21 MARK SWARTZ: There is some interest going forward

22 that remain in the trust.

23 BENNY WAMPLER: Anyway, to the extent that can be

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1 done simultaneously, we would like to see that done.

2 MARK SWARTZ: We'll look at that.

3 BENNY WAMPLER: We don't want to hold this process
4 up in doing that. And Mr. Ditz, also, we would like to make
5 sure that whatever resources you need to have at your
6 disposal, you go ahead and do that---.

7 DALE DITZ: I understand.

8 BENNY WAMPLER: ---to meet this time frame.

9 DALE DITZ: Certainly. If I can, I would like to at
10 least ask, never having met Jill Harrison before. Does this
11 process seem to be something that would be logical to proceed
12 with from your standpoint?

13 JILL HARRISON: It does to me. But I have one...I
14 guess I have a basic question about the documents today.
15 They're...Northeast Longwall Nine, on the document that the
16 operator has prepared, shows deposits of a hundred and sixty-
17 eight thousand seven hundred ninety-three dollars and one
18 cent (\$168,793.01). But the amounts that have been credited
19 to escrow 5A on your list are a hundred and sixty-two
20 thousand nine hundred fifty dollars and twenty-one cents
21 (\$162,950.21). That's a difference of not quite six thousand
22 dollars (\$6,000) less than what the operator shows deposited.
23 Mr. Swartz mentioned a five hundred dollar (\$500) check and

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1 then the negatives on when interest did not amount to fees as
2 less than two hundred dollars (\$200). So, I would have to
3 see this information before I'm required to sit down at this
4 table and say I agree to it or not, to go through it, because
5 I immediately see a discrepancy in what the operator says
6 they have deposited and the amounts that the bank shows that
7 have been credited to my client's interest in that tract.
8 So, those types of issues, I would need time to review and
9 confer with my clients to determine what questions we have
10 about the information being provided.

11 MARK SWARTZ: Well, the total at the bottom of that
12 sheet is not the total paid. There are two (2) totals. I
13 mean, it is a hundred and five thousand (105,000) on tract 3A
14 and a hundred and sixty-eight thousand (168,000) on 5A. I
15 mean, you've got to add them together.

16 JILL HARRISON: Well, if this is a---.

17 MARK SWARTZ: And, if I could finish---.

18 JILL HARRISON: I'm sorry. I'm sorry. I thought
19 you were through.

20 MARK SWARTZ: The bank statement and our records
21 are not...do not cover the same periods of time. Okay.
22 There is no way at this juncture that you could even get
23 close today. There's like a...there's a three (3) or four
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1 (4) month difference where our records are not going to agree
2 because at least what I got from them only goes through this
3 past summer. You know, so I can't bring it. But I've got a
4 current balance, but I don't have the intermediate steps from
5 last summer. So, you know, there's a point...we are going to
6 have to pick a point on this where everybody has got data in
7 their system and say this...you know, as of this date, this
8 is the amount and we may have to move it forward, but there
9 is no way. I mean, if Jill is...or anybody here is trying to
10 reconcile these numbers, they won't balance because they
11 cover different periods of time, and the reason I want income
12 savings from the bank is because, to the extent I can
13 approximate or zero in on what I think it ought to be and how
14 close are we. I'm close, but I'm not so close that I'm
15 saying we are on the same path here. So, you can't reconcile
16 these at this juncture and, you know, the goal is to come
17 back to you through a date. You know, because our records
18 may not be kept on the same basis, but through a date that's
19 going to be within the next...within the last couple of
20 months anyway, saying as of this date, here is what it is.
21 But you can't sit down and look at this stuff and make a
22 balance today.

23 JILL HARRISON: Well, that's what I understood you

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1 brought today was to show how the process would occur so that
2 it could reconciled. But if you are saying that when it is
3 brought to the Board again that those documents will
4 reconcile each other, then that's fine.

5 MARK SWARTZ: Well, they will through a date.

6 BENNY WAMPLER: And he is saying not---.

7 JILL HARRISON: And that's fine. I understand that.

8 BENNY WAMPLER: I guess what we are looking at is
9 the methodology. Does the methodology make sense and that's
10 what their trying to seek here?

11 JILL HARRISON: Well, I guess, what I'm going to
12 have to do is confer with my clients because basically I told
13 them what the Board had ordered last month and I
14 understand---.

15 BETTY KING: It has been changed.

16 JILL HARRISON: ---yeah, that is not what has
17 occurred. So, I will really have to talk to my clients with
18 one in New York and obviously with Miss King here.

19 BENNY WAMPLER: Any other comments or questions?

20 MASON BRENT: Can we reiterate where are we? What's
21 our conclusion here today?

22 (Mark Swartz and Claude Morgan confer with each
23 other.)

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1 BENNY WAMPLER: Wait till they finish the side
2 conversation.

3 MARK SWARTZ: You know, one...Claude raises a good
4 question to me. I talked about the fact that the two (2)
5 page spreadsheet discloses the monthly income and it would
6 enable us to allocate that income and to create an artificial
7 principal amount to resolve imbalances. Just to direct your
8 attention to an example of how we would propose to do this,
9 because if it is causing you heartburn, I don't want to come
10 back a month from now having done it or not, you know, and
11 say well, we didn't intend that. So, if you look at just the
12 first four (4) entries here, you will see that in August,
13 September, October, November of '92, money was paid in regard
14 to the tract that's identified on the royalty checks as 5A,
15 but was not paid with regard to 3A. What I would propose to
16 do then is to credit the income less fees that was earned in
17 that four (4) month period, and I need to consult with the
18 bank to determine if the money earnings posted in December
19 would pertain to November. Okay. And if they did, what I
20 would propose to do is include those. Start with a principal
21 plus earnings number for tract 5A as of December; add the
22 December royalty income for 5A, which was fifteen thirty-
23 three; start with the seventeen seventy-six seventy-nine for

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1 tract 3A and moving forward until we had another imbalance
2 situation; use those as the totals to be allocating income;
3 and if that makes sense to you all, then you need to tell me;
4 and if it doesn't, you need to tell me because we will
5 do...but that's what we had in mind.

6 BENNY WAMPLER: That makes sense to me. That's a
7 reconciliation, I think.

8 MARK SWARTZ: Okay.

9 DALE DITZ: On a pro-rata basis is basically what it
10 amounts to.

11 BENNY WAMPLER: Right.

12 MARK SWARTZ: Because once you get in balance and
13 going forward, you ought to be in balance until, you know,
14 because they are relative percentages coming out of the unit
15 are going to remain constant once you've got the numbers
16 constant. But I...just so you understand that...that's why
17 you can...once you've got an equal number, you can go
18 forward.

19 BENNY WAMPLER: So, you can go forward with that?
20 You can take those documents that you have and proceed on
21 that basis?

22 MARK SWARTZ: Right. Okay. I just wanted to make
23 sure that seemed...because we really didn't talk about that.

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1 MASON BRENT: Well, where I would like to see us get
2 is if we get this reconciliation done to the extent or to the
3 point at which we can authorize a distribution.
4 MARK SWARTZ: Right. I understand.
5 MASON BRENT: And I would like to do that at the
6 speed of light and then Miss Harrison can take as much time
7 as she wants as far as I'm concerned in figuring out---.
8 JILL HARRISON: Oh, it will be very quickly, I
9 assure you.
10 MARK SWARTZ: I mean, I don't see their review of
11 these numbers as affecting our obligation at all. I mean, we
12 are going to come forward with our best effort to tell you
13 what the actual numbers are. If they don't like them, they
14 can tell you. But that's a different issue.
15 MASON BRENT: Right. Right.
16 MARK SWARTZ: Right.
17 MASON BRENT: Well, now, when are we going to get
18 there?
19 BENNY WAMPLER: Well, what we...what we would like
20 to...go ahead and answer.
21 MARK SWARTZ: We are going to have as much of this
22 done, if not all of it, by the next meeting. I mean, if I
23 can get the bank statements...if we can get the bank
24

1 statements tomorrow---.

2 BENNY WAMPLER: We're talking December 15th.

3 MARK SWARTZ: Right, I understand.

4 DALE DITZ: You can have them tomorrow.

5 MARK SWARTZ: We can start on that work immediately

6 and then as soon as you can, I need from you the income on a

7 monthly basis and, you know---.

8 DALE DITZ: That will take a little bit longer---.

9 MARK SWARTZ: I understand.

10 DALE DITZ: ---but it won't take very long.

11 MARK SWARTZ: But we can at least start the

12 reconciliation process and organizing this kind of a

13 spreadsheet on these units. Now, the number of units are

14 going to have a lot more tracts and it is going to be way

15 more complicated in getting this stuff in balance. So, when

16 I say to you, and we come back, you'll see that, you know,

17 that we going...we feel like we have a shot at doing this. I

18 think that's a legitimate, truthful statement, but its a

19 lot...it is going to be a lot more complicated. So, we may

20 not get all of them done by next month.

21 JILL HARRISON: I would like...I'm sorry, Mr. Ditz.

22 DALE DITZ: Well, I'm just going say, I'll add to

23 anything that we can get completed ahead of time and transmit

24

1 on both to the Board or to other interested parties for
2 review before we get in here to the meeting, too.

3 BENNY WAMPLER: Yeah, we would like to see that
4 happen.

5 MAX LEWIS: Yeah.

6 BENNY WAMPLER: Anything we can do to expedite.

7 MARK SWARTZ: If we get any done early, we will, but
8 you know like this...if you had asked me three (3) days ago
9 for this spreadsheet, then I would have told you we would get
10 at the hearing. But I think, you know, since we've got
11 multiple units, we maybe able to give you a couple before we
12 give them.

13 JILL HARRISON: I would respectfully request that
14 the units which contain the most money be the ones that you
15 work on first.

16 BENNY WAMPLER: The...now, as I understand it, we
17 will need to notice all the parties in the unit like for next
18 month and just in general terms, why we can't say
19 specifically. Is that correct, Sandy, we will need to put
20 them on notice?

21 SANDRA RIGGS: At some point, before we disburse any
22 money, everybody needs to be noticed that this is what we
23 intend to do and this is how we did it.

24

--

1 BENNY WAMPLER: So, in order to be in position to
2 disburse next month, is what I'm trying to get us in position
3 to disburse as soon as we've got...arrive upon a figure,
4 we've done all the legal hurdles of notification and
5 everything else that's required so that there are no other
6 hangups. So, in terms of a notice, does everyone think that
7 it would suffice to generally describe the methodology that
8 would be utilized for disbursement, to arrive at a figure for
9 disbursement, and notice all the parties in the unit that
10 that is about to occur using that methodology? Does that
11 make sense?

12 (Everyone shakes their head, indicating in the
13 affirmative.)

14 BENNY WAMPLER: Does anyone disagree with that?

15 JILL HARRISON: And I would also ask to see the
16 proposed orders that Miss Riggs has prepared that would be
17 entered next month, which I understand what she was
18 discussing previously?

19 BENNY WAMPLER: These?

20 JILL HARRISON: Yes, sir. Before...if I...if
21 someone would just send me a copy, I would appreciate it.

22 SANDRA RIGGS: Well, it may change by next month. I
23 mean, it's sort of...I just wanted to get something out
24

1 there. But you are welcome to it.

2 JILL HARRISON: Well, if you want to wait and send
3 me a copy before the hearing, that's fine.

4 SANDRA RIGGS: When we are ready to actually do it.
5 I think will be---.

6 BENNY WAMPLER: Because there maybe some
7 differences.

8 SANDRA RIGGS: I mean, you're welcome to this one.
9 I have an extra.

10 JILL HARRISON: I also want---.

11 SANDRA RIGGS: I think it just takes the R-25 order
12 and more or less tracts it by leaving blanks.

13 JILL HARRISON: Right. I just would like to be as
14 prepared also for next month.

15 BENNY WAMPLER: Anything else?

16 (No audible response.)

17 BENNY WAMPLER: Any other questions?

18 (No audible response.)

19 BENNY WAMPLER: Thank you very much.

20 JILL HARRISON: Thank you.

21 DALE DITZ: Is there a date for the next meeting?

22 BENNY WAMPLER: December---.

23 MARK SWARTZ: 15th.

24

--

1 BENNY WAMPLER: ---the 15th. 15th.
2 DALE DITZ: Same time, same place?
3 BENNY WAMPLER: Tuesday. Same time, same place.
4 MAX LEWIS: Say you are going to get that to him by
5 tomorrow?
6 DALE DITZ: I can get a statement, yeah. Not the
7 interest calculation, but the statement. Yeah. If I can
8 find him tomorrow.
9 MARK SWARTZ: Well, you need to get them to Les is
10 what you need to do.
11 BENNY WAMPLER: You can find Les. Okay. Thanks.
12 Thank you all. The next item on the agenda is a petition
13 from Pocahontas Gas Partnership for pooling of a coalbed
14 methane unit identified as W-46...47?
15 SANDRA RIGGS: Number eight (8) is his.
16 TOM FULMER: 46.
17 BENNY WAMPLER: Yeah, I'm going to go ahead and call
18 that. Strike that, please. I'm going to go to number eight
19 (8) on the Board's agenda for the interest of somebody that's
20 waited here all morning long. The Gas and Oil Board will
21 consider a petition from Pocahontas Gas Partnership for
22 pooling of a coalbed methane unit identified as W-47. This
23 is located in the Maiden Springs District, Jewell Ridge
24

1 Quadrangle; docket number VGOB-98-11/17-0699. I'd ask the
2 parties that wish to address the Board in this matter to come
3 forward at this time.

4 MARK SWARTZ: Mark Swartz and Les Arrington. I
5 don't know if I misheard you, but I think you may have said
6 W-47 and it's W-46.

7 SANDRA RIGGS: He called number eight (8).

8 BENNY WAMPLER: I switched them.

9 TOM FULMER: Number eight (8).

10 BENNY WAMPLER: I didn't go next in line. I've got
11 you all out of wack. This gentlemen has been waiting, so I
12 just moved to one that he had on the agenda and then we'll go
13 back and get you in order.

14 MASON BRENT: Is that too much for you to handle?

15 BENNY WAMPLER: I had understood you wanted to
16 continue that.

17 MARK SWARTZ: Well, the problem is that we've got a
18 bunch that we need to continue and I bet that's one of them.

19 BENNY WAMPLER: Well, that's what I heard and I
20 wanted to go ahead and deal with it, so he won't have to
21 wait.

22 MARK SWARTZ: Well, we have...item six (6), seven
23 (7) and eight (8), we sent the publication notice and the
24

1 request to the newspaper and they didn't publish it. So,
2 we've mailed out all the notices. You know, we've done
3 everything. We're here, and when Les was putting together
4 his affidavit for due diligence, you know, to file that we
5 done the publication and everything, he was looking for the
6 certificate and they hadn't published. So, we need to
7 continue those three (3) docket items. I assume the
8 publication is back in their hands again to accomplish the
9 publication.

10 BENNY WAMPLER: Okay. Let me go ahead and just call
11 those three (3) docket item numbers. Docket number VGOB-98-
12 11/17-0697, docket number VGOB-98-11/17/0698 and VGOB-98-
13 11/17-0699 and the operator has requested, for the reasons
14 stated, to continue those items. Do you want to identify
15 yourself?

16 RICK KINDER: My name is Rick Kinder.

17 BENNY WAMPLER: Do you have any objection to any
18 parties here to a continuance of that?

19 RICK KINDER: No, sir.

20 BENNY WAMPLER: They will be continued to the next
21 meeting then.

22 RICK KINDER: That's fine. Thank you for your time.

23 BENNY WAMPLER: Okay. Thank you very much.

24

--

1 RICK KINDER: Yes, sir. You have a nice day.

2 BENNY WAMPLER: You too. Thank you. The next item

3 on the agenda then, going back to number three (3) on the

4 Board's agenda, this is...the Gas and Oil Board will consider

5 a petition from Pocahontas Gas Partnership for pooling of

6 coalbed methane unit identified as W-46; docket number VGOB-

7 98-10/20-0689 continued from October. We'd ask the parties

8 that wish to address the Board in this matter to come forward

9 at this time, please.

10 MARK SWARTZ: Mark Swartz and Les Arrington.

11 BENNY WAMPLER: The record will show there are no

12 others. You may proceed.

13 MARK SWARTZ: There were...this was continued from

14 October because we had some errors in the notice as was the

15 next...the next item on the Board's agenda was continued from

16 October as well. This is a pooling application under the

17 Oakwood Field Rules I for frac wells. Because of the number

18 of changes, and Les will talk about that, but we had some

19 revised...revisions to the plat and some leasing and so

20 forth. You would probably be well advised to go with the

21 booklet rather than trying to use what's in your ring binder,

22 because it contains the revised application, which is

23 appropriate and the revised plat...the tract identification

24

1 and so forth. So, Les and I, as we work through this today,
2 are going to primarily be focusing on those exhibits as the
3 current revised correct depiction of where we are in the unit
4 with regard to both our leasing efforts and the tract IDs and
5 so forth. With that, Les, you're going to need to be sworn.

6 So, if you could raise your right hand.

7 (Witness is duly sworn.)

8

9 LESLIE K. ARRINGTON

10 having been duly sworn, was examined and testified as
11 follows:

12 DIRECT EXAMINATION

13 QUESTIONS BY MR. SWARTZ:

14 Q. State your name, please?

15 A. Leslie K. Arrington.

16 Q. Who do you work for?

17 A. Consol.

18 Q. What do you do for them?

19 A. I'm a permit specialist. I draft all the
20 pooling applications and well permits.

21 Q. Okay. And you do that for Pocahontas Gas
22 Partnership?

23 A. Yes, I do.

24

--

1 Q. Okay. As well as Buchanan Production
2 Mining?
3 A. That's correct.
4 Q. Okay. In this instance, have you done all
5 of the paperwork with regard to W-46?
6 A. Yes, I have.
7 Q. Okay. And is the booklet, the gray booklet
8 of exhibits that you've passed out today with tabs, does that
9 contain the revised current information which we are going to
10 be focusing on today in your testimony?
11 A. It does.
12 Q. Okay. The applicant here is Pocahontas Gas
13 Partnership?
14 A. Yes, it is.
15 Q. And Pocahontas Gas Partnership is a Virginia
16 General Partnership?
17 A. Yes, it is.
18 Q. And it has two (2) corporate partners and
19 they are Consolidation Coal Company and Conoco, Inc.?
20 A. Yes, it is.
21 Q. Is there a request that someone be made
22 designated operator?
23 A. Yes, it is.
24

1 Q. And who would that be?

2 A. Pocahontas Gas.

3 Q. Okay. Has Pocahontas Gas Partnership...

4 first of all, is authorized to do business in the

5 Commonwealth?

6 A. Yes, it is.

7 Q. And has it registered with the Department,

8 and does it have a blanket bond on file as required by law?

9 A. Yes, it is.

10 Q. Now, the respondents, the people that we're

11 seeking to pool today, were they identified in the notice

12 that went out originally?

13 A. Yes, it was. The original notice.

14 Q. Right.

15 A. The...let's see the original notice...in the

16 original notice, we had to go back and add a party.

17 Q. And rennotice?

18 A. And rennotice.

19 Q. Okay. So, there was a remailing here?

20 A. Yes, it was.

21 Q. And item...Exhibit Number Nine (9) with a

22 return receipts would show that that...that remailing?

23 A. Yes, it does.

24

1 Q. Okay. And that occurred on 10/7/98,
2 correct?
3 A. Yes.
4 Q. Okay. And the originally mailing was
5 9/18/98?
6 A. That's correct.
7 Q. Okay.
8 BENNY WAMPLER: The remailing included all the
9 parties, even those previously notified?
10 LESLIE K. ARRINGTON: Uh-huh.
11 BENNY WAMPLER: Okay.
12 Q. Now, the...the additional...that party then
13 would have required that Exhibit B3, which is the parties to
14 be pooled Exhibit, be modified, correct?
15 A. It was. That's correct.
16 Q. Okay. Exhibit B3 is behind tab six (6),
17 correct?
18 A. It is.
19 Q. And that sets forth the names of the people
20 that you are seeking to pool today as part of this
21 application?
22 A. Yes, it does.
23 Q. And if we go back then to Exhibit Three (3),
24

1 that sets forth the various percentages, doesn't it, in terms
2 of standing?

3 A. In our Exhibit Three (3)...oh, yes, Exhibit
4 A, page two (2). I'm sorry. Yes.

5 Q. Okay. And what portion of the coal estate
6 has Pocahontas Gas Partnership lease or does it own?

7 A. One hundred (100) percent.

8 Q. And of the oil and gas estate, what
9 percentage does Pocahontas Gas Partnership either lease or
10 own?

11 A. 91.19612 percent.

12 Q. Okay. And that would mean then, that the
13 estate that's being pooled today is the oil and gas estate to
14 the extent that there is an 8.8038 outstanding interest?

15 A. That's correct.

16 Q. The percentage outstanding?

17 A. That's correct.

18 Q. This is an application to pool under the
19 Oakwood I rules is that correct?

20 A. Yes, it is.

21 Q. And does the revised plat behind Exhibit
22 Four (4) show the location of the well?

23 A. Yes, it does.

24

--

1 Q. And it's within...although the three hundred
2 (300) foot drilling window is not depicted on this map, it's
3 within that window, is it not?

4 A. Yes, it is.

5 Q. Okay. And you're supposing at this point
6 one well for that unit?

7 A. Yes, we are.

8 Q. Okay. And the cost exhibit with regard to
9 that well would have been submitted with the original pooling
10 application?

11 A. Yes, it was.

12 Q. Okay.

13 A. And that cost was two hundred forty-two
14 thousand three hundred one dollars and thirty cents
15 (\$242,301.30).

16 Q. Okay. And that was an estimate that you
17 prepared?

18 A. Yes, it was.

19 Q. With regard to this eighty (80) acre unit,
20 you're proposing to produce on a frac gas basis from coal
21 seams from the Tiller down to the what, Pocahontas Three and
22 below?

23 A. All seams that's in the Oakwood I order.

24

--

1 Q. Below the Tiller?

2 A. Yes, below the Tiller.

3 Q. And it is an eighty (80) acre unit?

4 A. Yes, it is.

5 Q. Okay. And you have, as we've already

6 discussed, mailed on two (2) different occasions?

7 A. Yes, we did.

8 Q. Okay. And that information is contained in

9 the exhibits you've submitted today and you've also published

10 the notice of hearing and the application?

11 A. Yes, we did.

12 Q. Okay. And those publications are behind tab

13 ten (10), correct?

14 A. That's right.

15 Q. The...other than the respondents that we've

16 listed today in the Revised Exhibit B3, do you want to add

17 any more?

18 A. No.

19 Q. Do you want to dismiss any?

20 A. No.

21 Q. Could you describe to the Board the lease

22 terms that you have offered to the people from whom you have

23 already obtained leases in this unit?

24

1 A. Yes, in general terms, it's a dollar per
2 acre for coalbed methane, with a one-eighth royalty, five (5)
3 year term.

4 Q. And the term is five (5) years?

5 A. Yes, sir.

6 Q. And the rental, is that payable only until
7 production commences?

8 A. Yes, it is.

9 Q. And would you recommend that in pooling with
10 regard to the deemed to have leased terms, that the Board
11 implement those terms in the order?

12 A. Yes, we would.

13 Q. The percentage as set forth in Exhibit B3
14 can be used to allocate royalty on the one hand, correct?

15 A. That's correct we can.

16 Q. And costs if people opt to be carried or opt
17 to participate on the other hand?

18 A. Uh-huh. That's correct.

19 Q. The projected depth or actual depth of this
20 well is twenty-three oh four (2304)?

21 A. Yes, it is.

22 Q. Okay. Has it been drilled already?

23 A. Yes, well number W-46, permit number 3825,
24

1 has already been drilled.

2 Q. Okay. Lastly, I would ask whether or not
3 the proposed development as depicted in the Exhibits that
4 you've tendered to the Board seems to you to be a reasonable
5 methodology for developing the coalbed methane resource
6 within this unit?

7 A. Yes, it does.

8 Q. And as such, is a reasonable way to protect
9 correlative rights?

10 A. Yes, it is. And Mark, I would like to make
11 a correction---

12 Q. Okay.

13 A. ---on some information, please.

14 Q. Go for it.

15 A. Okay. The oil and gas percentage that we do
16 have under lease...I miss...I picked out the wrong exhibit.
17 If you'll go to Exhibit Thirteen (13). I'm sorry. That's
18 the corrected page. There's two (2) sets of exhibits in the
19 book, one for revision one (1) and one for revision two (2).
20 Use the revision two (2). I'm sorry. I made that mistake.

21 MASON BRENT: So, the unleased oil and gas is
22 6.339---

23 LESLIE K. ARRINGTON: Yes, it is.

24

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1 MASON BRENT: ---not the 8.08.

2 LESLIE K. ARRINGTON: I...yes, it is. That's

3 correct. And all the exhibits in this second group of

4 exhibits are the exhibits that we need to use. My mistake.

5 Q. So, the status of the unit and what we are

6 seeking to pool is behind the second set of exhibits---?

7 A. Yes, it is.

8 Q. ---tab three?

9 A. Yes.

10 Q. To show sort of the moving target here---?

11 A. Uh-huh.

12 Q. ---in terms of adding parties and then we

13 have an exhibit B3 which has been revised again---?

14 A. Yes, it has.

15 Q. ---which is at...which is behind tab six (6)

16 in the...I'm sorry tab sixteen (16), I guess, in the second

17 set of exhibits, correct?

18 A. That's correct, it is.

19 Q. When I said Exhibit Three (3), I meant tab

20 Thirteen (13) a moment ago.

21 MASON BRENT: What was the reason for having both of

22 them in here?

23 LESLIE K. ARRINGTON: Well, what we had originally

24

1 done...I went ahead and just provided everything I had gone
2 through.

3 MASON BRENT: Uh-huh.

4 LESLIE K. ARRINGTON: Revision One we done back mid-
5 month, and then we did identify some additional owners which
6 was included again in the second revision changing the totals
7 and what have you. We did do a little partial interest
8 leasing in that unit and I dismissed that.

9 BENNY WAMPLER: I don't have an AFE in either the
10 original application or with this. Does anyone have it?

11 MASON BRENT: No, I was going to ask the very same
12 question. I don't have it.

13 MARK SWARTZ: Did we...I mean, I show one in what I
14 have.

15 LESLIE K. ARRINGTON: Yeah, in my copies.

16 MASON BRENT: Which tab?

17 MARK SWARTZ: No, no.

18 LESLIE K. ARRINGTON: No, not in the booklet.

19 MARK SWARTZ: It's in the original application.

20 LESLIE K. ARRINGTON: It's in the original
21 application. I'm sorry.

22 BENNY WAMPLER: I didn't have it in the original.

23 MASON BRENT: I didn't see one there either.

24

--

1 BENNY WAMPLER: It may not have gotten copied when
2 it came to us. I just want to make sure we have it as part
3 of the record.

4 LESLIE K. ARRINGTON: Yes. It was---.

5 MARK SWARTZ: Well, we've got the one that was
6 stamped filed and I can...I can lend you mine today, but---.

7 BENNY WAMPLER: Well, Tom is checking to see if he
8 has it. I just...we need to make sure we have it for the
9 record. We've got it?

10 TOM FULMER: Yeah, I've got it.

11 MARK SWARTZ: Okay.

12 BENNY WAMPLER: Okay. It just...it just didn't get
13 copied to us.

14 TOM FULMER: 8/3/98?

15 BENNY WAMPLER: You're talking about the---?

16 SANDRA RIGGS: The date.

17 BENNY WAMPLER: ---the date?

18 TOM FULMER: Uh-huh.

19 BENNY WAMPLER: That is was signed?

20 LESLIE K. ARRINGTON: On W-46?

21 TOM FULMER: 9/17/98?

22 LESLIE K. ARRINGTON: Yes, it is.

23 MARK SWARTZ: Right. On W-46.

24

1 LESLIE K. ARRINGTON: Uh-huh.

2 BENNY WAMPLER: And verify the numbers?

3 LESLIE K. ARRINGTON: Two forty-two, three-oh-one

4 thirty.

5 TOM FULMER: Right.

6 BENNY WAMPLER: Okay. Thank you.

7 MARK SWARTZ: That's all I have.

8 BENNY WAMPLER: Any questions from members of the

9 Board?

10 (No audible response.)

11 BENNY WAMPLER: Do I have a motion?

12 MASON BRENT: Mr. Chairman, I'd move that we grant

13 the application.

14 BENNY WAMPLER: Motion to grant the application. Is

15 there a second?

16 MAX LEWIS: I second it.

17 BENNY WAMPLER: Any further discussion?

18 (No audible response.)

19 BENNY WAMPLER: All in favor signify by saying yes.

20 (All members signify yes.)

21 BENNY WAMPLER: Opposed say no.

22 (No audible response.)

23 BENNY WAMPLER: It's approved. The next item on the

24

1 agenda is a petition from Pocahontas Gas Partnership for
2 pooling of a coalbed methane unit identified as V-46. This
3 is docket number GOB-98-10/20-0690. We'd ask the parties
4 that wish to address the Board in this matter to come forward
5 at this time.

6 MARK SWARTZ: Mark Swartz and Les Arrington again.

7 BENNY WAMPLER: The record will show there are no
8 others. You may proceed.

9 MARK SWARTZ: Les tells me that...and as I look at
10 it, that we have the same organization here with regard to
11 revised exhibits. The current set of exhibits, again showing
12 you between the application and the first revisions, and then
13 the current set of revised exhibits starts with tab ten (10),
14 which has a new notice that went out, and then the exhibits
15 behind would reflect the changes and the status as of today.

16

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21 LESLIE K. ARRINGTON

22 having been duly sworn, was examined and testified as
23 follows:

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DIRECT EXAMINATION

QUESTIONS BY MR. SWARTZ:

Q. Les, you need to state your name again?

A. Leslie K. Arrington.

Q. Who do you work for?

A. Consol.

Q. And what are your duties?

A. Permit specialist under drafting permit applications and pooling application for both Buchanan Production and Pocahontas Gas Partnership.

Q. And in this instance, the applicant is Pocahontas Gas Partnership?

A. Yes, it is.

Q. And Pocahontas Gas Partnership is a Virginia General Partnership?

A. Yes, it is.

Q. It has two (2) partners. One, is Consolidation Coal Company and the other is Conoco, Inc.?

A. Yes, it is.

Q. Are you also requesting, or is Pocahontas Gas Partnership requesting that it be designated the operator?

A. Yes, we are.

1 Q. Does PGP have a blanket bond on file, is it
2 registered both with the Commonwealth and the DMME to do
3 business in this state?
4 A. Yes, it is.
5 Q. The respondents, are those the folks that
6 are listed in the revised notice of hearing behind tab ten
7 (10)?
8 A. Yes, they are.
9 Q. And did you mail to them to the extent you
10 had addresses?
11 A. Yes, we would have.
12 Q. And did you publish as well?
13 A. Yes, we did.
14 Q. Okay. Is the proof of publication within
15 the packet of exhibits here?
16 A. Yes, it is. Exhibit Nineteen (19),
17 published on October 30th, 1998 in the Bluefield Daily
18 Telegraph.
19 Q. And the mailing information in terms of the
20 notice that was mailed on 10/22, that is behind tab eighteen
21 (18), correct?
22 A. That's correct.
23 Q. The Exhibit B-3, which would set forth
24

1 percentages that is the current exhibit that we will be
2 dealing with is behind tab fifteen (15), is that correct?

3 A. That's correct, it is.

4 Q. And that lists a number of estates, correct?

5 A. Yes, it does. I'm sorry.

6 Q. For whom you do not really have mailing
7 information?

8 A. That's correct. We only had mailing address
9 for one person.

10 Q. And the mailing certification shows you
11 mailed to them?

12 A. That's correct.

13 Q. Okay. Have you been able identify some of
14 the heirs?

15 A. Yes, we have.

16 Q. And to the extent that you have been able to
17 identify them, have you leased from them?

18 A. Yes, we have.

19 Q. So, that's why you are not pooling them
20 here?

21 A. That's correct.

22 Q. But I assume there are still outstanding
23 heirs you have not been able to identify that you need to
24

1 identify and lease if you can?

2 A. That's correct.

3 Q. And that's why these estates are listed as

4 they are?

5 A. That's correct, it is.

6 Q. Is this an eighty (80) acre unit that we're

7 proposing to pool here?

8 A. Yes, it is.

9 Q. Under Oakwood I?

10 A. Yes, it is.

11 Q. And so it would be frac production from coal

12 seams below the Tiller?

13 A. That's correct, it would be.

14 Q. And there's one well proposed for this unit?

15 A. Yes, it is.

16 Q. If you look at the tab four (4), does that

17 show...or behind tab four (4), does that show the well

18 location?

19 A. Yes, it does.

20 Q. Is it within or inside of the three hundred

21 (300) foot drilling window?

22 A. Yes, it is.

23 Q. Okay. And did you---?

24

1 MASON BRENT: Could I ask in the future, if you
2 will, to show the three hundred (300) foot window here?
3 LESLIE K. ARRINGTON: I...yeah. You asked last
4 month and we have started that.
5 MASON BRENT: I did want to remind you of that.
6 LESLIE K. ARRINGTON: We've done our best.
7 Q. Have you done a cost estimate with regard to
8 this well?
9 A. Yes, I have. It was for two hundred and
10 fifty-six thousand ninety-two dollars and ten cents
11 (\$256,092.10), with a total depth of twenty-three seventy-six
12 (2376), permit number thirty-seven ninety.
13 Q. And has the well been drilled?
14 A. Yes, it has.
15 MASON BRENT: Did you submit an AFE? It's not in
16 the book again.
17 MARK SWARTZ: It's in our paperwork. So, it was
18 done---.
19 LESLIE K. ARRINGTON: Same day.
20 MARK SWARTZ: ---September 17th.
21 BENNY WAMPLER: Do you have it?
22 TOM FULMER: Yes.
23 MASON BRENT: Okay.

24

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1 BENNY WAMPLER: We don't have it.

2 Q. Do you wish to add any respondents today or
3 dismiss any?

4 A. No, we do not.

5 Q. Okay. If we go to tab twelve (12), we have
6 a Revised Exhibit A, page two (2), correct?

7 A. Yes, we do.

8 Q. And that sets forth the standing here in
9 terms of the percentage of coal leased or owned which is
10 what?

11 A. A hundred...we lease one hundred (100)
12 percent of the coalbed methane in the coal and 98.68898
13 percent of the oil and gas interest.

14 Q. Okay. And so what we are seeking to pool
15 here is 1.31102 percent of the oil and gas interest, correct?

16 A. That's correct, we are.

17 Q. With regard to folks, obviously the vast
18 majority of the people in this unit that you have leased,
19 what generally have been the lease terms that you've offered?

20 A. Again, it's for coalbed methane lease. It's
21 a dollar per acre per year and a one-eighth royalty, five (5)
22 year term and the dollar per acre as a rental until
23 production begins.

24

--

1 Q. And would you recommend those terms to the
2 Board to incorporate into any order with regard to a deemed
3 to have leased folks?

4 A. Yes, we would.

5 Q. If you look at Exhibit Fifteen (15), which
6 is the most recent version of Exhibit B-3, the list of people
7 that are being pooled, there's an interest in unit column at
8 the...on the far right.

9 A. That's correct, it is.

10 Q. And that would be the percentage that would
11 define how royalty was distributed to these folks or escrows?

12 A. That's correct, it would be.

13 Q. And these same percentages, because this is
14 a frac unit, would also be applied to a carried interest
15 option in terms of costs?

16 A. Yes, it would.

17 Q. Or a participation option in terms of costs?

18 A. Yes, it would.

19 Q. Okay. You have also, within the collection
20 of exhibits there is behind tab sixteen (16) the list of
21 conflicting owners and claimants that, at least at this
22 juncture, would require escrow?

23 A. That's correct, it does.

24

--

1 Q. Lastly, I would ask you whether or not it is
2 your opinion that the proposed frac development, which is
3 described in the plat and in the AFE, is a reasonable plan to
4 develop the coalbed methane within this unit?

5 A. Yes, it is.

6 Q. And in...as such, is a reasonable plan to
7 protect correlative rights of the owners of the methane
8 within the unit?

9 A. Yes, it does.

10 MR. SWARTZ; That's all I have.

11 BENNY WAMPLER: Any questions from members of the
12 Board?

13 (No audible response.)

14 BENNY WAMPLER: What's your pleasure?

15 MASON BRENT: Mr. Chairman, I move that we grant the
16 application.

17 BENNY WAMPLER: Motion to approve. Is there a
18 second?

19 MAX LEWIS: I second.

20 BENNY WAMPLER: Second. Any further discussion?

21 (No audible response.)

22 BENNY WAMPLER: All in favor signify by saying yes.

23 (All members signify yes.)

24

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1 BENNY WAMPLER: Opposed say no.
2 (No audible response.)
3 BENNY WAMPLER; You have approval. Thank you.
4 MARK SWARTZ; Thank you all.
5 BENNY WAMPLER: We will take a five (5) minute break
6 while Columbia Natural Resources folks get set up.
7 (Off record)
8 BENNY WAMPLER: Come to order. We will consider a
9 petition from Columbia Natural Resources for a well location
10 exception for a conventional well unit...for a proposed
11 conventional well unit identified as 21672. This is docket
12 number GOB-98-10/20-0696, continued from October and we'd ask
13 the parties that wish to address the Board in this matter to
14 come forward at this time.
15 JIM KISER: Mr. Chairman and members of the Board,
16 Jim Kiser on behalf of Columbia Natural Resources. Our
17 witnesses in this matter will be Ms. Mary Ann Fox and Ms.
18 Becky Barnes. I'd ask at this time that they be sworn.
19 (Both witnesses are duly sworn.)
20 BENNY WAMPLER: Okay. The record will show there
21 are no others. You may proceed.
22
23 MARY ANN FOX
24
--

1 having been duly sworn, was examined and testified as
2 follows:

3 DIRECT EXAMINATION

4 QUESTIONS BY MR. KISER:

5 Q. Ms. Fox, could you state your name for the
6 record, who you are employed by and in what capacity?

7 A. My name is Mary Ann Fox. I'm employed by
8 Columbia Natural Resources as a law services coordinator in
9 their law department.

10 Q. And you have previously been testified
11 before the Virginia Gas and Oil Board as a expert witness on
12 land matters and your qualifications as such have been
13 previously accepted?

14 A. Yes, they have.

15 JIM KISER: Mr. Chairman, we'd ask that Ms. Fox be
16 accepted as an expert witness in land matters.

17 BENNY WAMPLER: You may proceed.

18 Q. And do your responsibilities include the
19 land involved here and the unit for CNR well number 21672 and
20 in the surrounding area?

21 A. Yes.

22 Q. And are you familiar with the application
23 for a location exception for well number 21672 and the relief

24

--

1 that was requested in that application?

2 A. Yes, I am.

3 Q. Okay. And have all interested parties been
4 notified as required by Section 4B of the Virginia Gas and
5 Oil Board regulations?

6 A. Yes, they have.

7 Q. Okay. Now, we are seeking a variance, or an
8 exception, to one well in this case?

9 A. Yes.

10 Q. And that is CNR well number 9680?

11 A. Yes.

12 Q. And CNR...that is the reciprocal that we are
13 seeking the location exception from and CNR has the right to
14 operate that well?

15 A. Yes, they do.

16 Q. Okay. Now, in this particular case, the oil
17 and gas ownership is Pine Mountain Oil and Gas and some
18 individual tracts, right?

19 A. Correct.

20 Q. The coal ownership is either Pixes/
21 Clinchfield, or Penn Virginia, or an entity known as Haden
22 Farms? They've all been notified and approve this location,
23 is that correct?

24

1 A. That's correct.

2 Q. In fact, there was a permit filed some time
3 ago for this well that was pulled back because Penn Virginia
4 Coal did not agree with that original location?

5 A. That's correct.

6 Q. Okay.

7 A. And other coal operators, also.

8 Q. Right. And now everybody is on board and in
9 agreement with this location?

10 A. Yes.

11 Q. And essentially the reason we have located
12 it where we have is that because of the other reciprocal
13 wells that are designated on the plat that's attached to the
14 application, if we were to move it to any other location that
15 was coal approved, we would be seeking an exception or
16 variance from one of those other reciprocal wells, is that
17 correct?

18 A. That's correct and would really have to seek
19 coal approval.

20 Q. Okay.

21 A. Yes.

22 JIM KISER: Nothing further of this witness at this
23 time, Mr. Chairman.

24

--

1 BENNY WAMPLER: Any questions from members of the
2 Board of this witness?

3 (No audible response.)

4 BENNY WAMPLER: Okay. Call your next witness.

5

6 BECKY BARNES

7 having been duly sworn, was examined and testified as
8 follows:

9 DIRECT EXAMINATION

10 QUESTIONS BY MR. KISER:

11 Q. Ms. Barnes, would you state your name for
12 the Board, who you are employed by and in what capacity?

13 A. My name is Becky Barnes. I'm employed by
14 Columbia Natural Resources and I'm a Senior Prospect
15 Engineer.

16 Q. And I think in January of this year, you
17 testified before the Board and your qualifications as an
18 expert witness in the areas of production and operations were
19 accepted by the Board?

20 A. Yes, that's correct.

21 JIM KISER: Mr. Chairman, we'd move that Ms. Barnes
22 be accepted as an expert witness in those areas.

23 BENNY WAMPLER: You may proceed.

24

--

1 Q. And are you familiar with the application
2 that was filed in this matter and the relief that's being
3 sought, that being a location exception for well number
4 21672?

5 A. Yes, I am.

6 Q. Now, in the event this location exception
7 would not be granted, would you project the estimated loss of
8 reserves?

9 A. Yes, I did. Five hundred million
10 (5,000,000) cubic feet of gas.

11 Q. And what is the total depth of the proposed
12 well under the plan of development?

13 A. Approximately five hundred (500)...five
14 thousand five hundred and fifty (5,550) feet.

15 Q. Five thousand five hundred and fifty
16 (5,550)?

17 A. Uh-huh.

18 Q. And will this be sufficient to penetrate and
19 test the common sources as supplied in the subject
20 formations?

21 A. Yes.

22 Q. And is CNR requesting that this location
23 exception cover conventional gas reserves to include any
24

1 designated formations listed in the permit application for
2 the surface to the total depth drilled?

3 A. Yes.

4 Q. And in your professional opinion, will the
5 granting of this application be in the best interest of
6 preventing waste, protecting correlative rights and
7 maximizing the recovery of the gas reserves underlying the
8 unit for well number 21672?

9 A. Yes.

10 JIM KISER: Nothing further of this witness at this
11 time, Mr. Chairman.

12 BENNY WAMPLER: Any questions from members of the
13 Board of this witness?

14 (No audible response.)

15 JIM KISER: Mr. Chairman, we'd ask that the
16 application be approved as submitted.

17 MASON BRENT: Did you all submit a AFE with this?

18 JIM KISER: You don't with location exceptions.

19 MASON BRENT: You don't with this. Yeah, okay.

20 BENNY WAMPLER: Did you have something, Tom?

21 TOM FULMER: No, I don't.

22 BENNY WAMPLER: Okay. All right. Do I have a
23 motion?

24

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1 MAX LEWIS: I make a motion that we approve it---.

2 BENNY WAMPLER: To approve?

3 MAX LEWIS: ---as submitted.

4 BENNY WAMPLER: Second?

5 MASON BRENT: Mr. Chairman, I would like for the

6 record to show that I have recused myself from this vote.

7 BENNY WAMPLER: All right. We still have a quorum.

8 RICHARD GILLIAM: Second.

9 BENNY WAMPLER: Have a motion and a second. Any

10 further discussion?

11 (No audible response.)

12 BENNY WAMPLER: All in favor signify by saying by

13 saying yes.

14 (All members signify by yes except for Mason Brent

15 who recused himself.)

16 BENNY WAMPLER: Opposed say no.

17 (No audible response.)

18 BENNY WAMPLER: You have approval. Thank you.

19 JIM KISER: Thank you, Mr. Chairman.

20 BENNY WAMPLER: The next item on the agenda is a

21 petition from Cabot Oil and Gas Corporation for a

22 conventional gas unit identified as Berwind #25. This is

23 docket number GOB-98-11/17-0700. We'd ask the parties that

24

1 wish to address the Board in this matter to come forward at
2 this time.

3 JIM KISER: Mr. Chairman, while our witnesses are
4 coming up, I'm going to hand out some resumes and a Revised
5 Exhibit B pertaining to this matter.

6 (Jim Kiser hands out resume and Revised Exhibit B.)

7 JIM KISER: Mr. Chairman, Jim Kiser on behalf of
8 Cabot Oil and Gas Corporation. Our witnesses in this matter
9 will be Mr. Mike Pryor as to land and Mr. Mark McCormick as
10 to production and operations. I'd ask that the witnesses be
11 sworn at this time.

12 (Both witnesses are duly sworn.)

13 BENNY WAMPLER: The record will show there are no
14 others. You may proceed.

15

16 MICHAEL S. PRYOR, SR.

17 having been duly sworn, was examined and testified as
18 follows:

19 DIRECT EXAMINATION

20 QUESTIONS BY MR. KISER:

21 Q. Now, Mr. Pryor, could you state your name
22 for the Board, who you are employed by and in what capacity?

23 A. Michael S. Pryor, Sr. I'm employed by Cabot

24

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1 Oil and Gas Corporation as an Independent Landman.

2 Q. And you're...have testified on numerous
3 occasions before the Board as an expert witness in land
4 matters?

5 A. Yes, I have.

6 JIM KISER: Mr. Chairman, we'd ask that Mr. Pryor
7 be accepted as an expert witness in those matters.

8 BENNY WAMPLER: He is accepted. You may proceed.

9 Q. And your responsibilities include the land
10 involved here and in the surrounding area?

11 A. Yes, they do.

12 Q. And are you familiar with Cabot's
13 application for the establishment of a drilling unit in
14 seeking a pooling order for Cabot well number Berwind #25,
15 which was dated October 15th, 1998?

16 A. Yes, I am.

17 Q. Does Cabot own drilling rights in the unit
18 involved here?

19 A. Yes, they do.

20 Q. And does the proposed unit depicted at
21 Exhibit A to the application, that being the well plat,
22 include all acres within twenty-five hundred (2,500) feet of
23 the proposed Berwind #25 well?

24

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1 A. I don't have a copy of the...yes. Yes, it
2 does.

3 Q. Okay. Now, prior to filing the application,
4 were efforts made to contact each of the respondents and an
5 attempt made to work out an agreement regarding the
6 development of the unit?

7 A. Yes, they were.

8 Q. Now, what was the interest...the leased
9 interest of oil and gas estate of Cabot within the unit at
10 the time the application was filed?

11 A. At the time the application was filed, we
12 had 90.92 percent leased.

13 Q. Okay. Now, subsequent to the filing of the
14 application on October 15th, did you continue to attempt to
15 reach an agreement with any unlisted respondents listed at
16 the Exhibit B?

17 A. Yes, I did.

18 Q. And as a result of those efforts, have you
19 been able to acquire any leases from any of the unleased
20 respondents?

21 A. Yes, I have.

22 Q. And could you point that interest out for
23 the Board, which would be in your Revised Exhibit B?

24

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1 A. It would be...it should be Julie Stevens.

2 Q. And that's Tract Two (2)?

3 A. Tract Two (2), right.

4 Q. And it represents 9.49 gross acres and 8.42

5 percent of the unit?

6 A. That's correct.

7 Q. Okay. So, what now would be the current

8 percentage of the unit that's under lease to Cabot?

9 A. 99.34 percent leased.

10 Q. And that leaves 0.66 percent unleased?

11 A. That's correct.

12 Q. And the one unleased party being the John L.

13 Barrett who you have not been able to locate, are they set

14 out in Revised Exhibit B?

15 A. Yes, they are.

16 Q. And did we make all diligent efforts and

17 check all sources to identify and locate the Barrett heirs

18 including primary sources such as deed records, probate

19 record, assessor's records, treasurer's records and secondary

20 sources such as telephone directories, city directories,

21 family and friends?

22 A. Yes.

23 Q. In your professional opinion, was due

24

1 diligence exercised to locate each of the respondents named
2 in Revised Exhibit B?

3 A. Yes.

4 Q. Are you requesting the Board to force pool
5 all unleased interest listed in Revised Exhibit B?

6 A. Yes.

7 Q. Okay. Now, does Cabot seek to force pool
8 the drilling rights of each individual respondent, if living;
9 or if deceased, any unknown successor or successors to any
10 deceased individual respondent?

11 A. Yes, we do.

12 Q. Now, are you familiar with the fair market
13 value of drilling rights in this unit and in the surrounding
14 area?

15 A. Yes.

16 Q. Okay. Could you advise the Board as to what
17 those are?

18 A. Five dollar (\$5) per acre bonus, one-eighth
19 royalty with a five (5) year term.

20 Q. And did you gain this familiarity by
21 acquiring oil and gas leases and other agreements involving
22 the transfer of drilling rights in the unit involved here and
23 in the surrounding area?

24

--

1 A. Yes, I did.

2 Q. In your professional opinion, Mr. Pryor, do
3 the terms you have testified to represent the fair market
4 value of, and fair and reasonable compensation to be paid
5 for, drilling rights within this unit?

6 A. Yes.

7 Q. Now, as to the parties who are listed at
8 revised Exhibit B and remain unleased, should...if the
9 unknown interest can be located, should they be allowed the
10 following options with respect to their ownership interest in
11 the unit: 1) Participation;)A cash bonus of five dollars
12 (\$5) per net mineral acre, plus a one-eighth of eight-eighths
13 royalty; 3) In lieu of the cash bonus of one-eighth of eight-
14 eighths royalty share in the operation of the well, on a
15 carried basis as a carried operator under the following
16 conditions: Such carried operator shall be entitled to a
17 share of production from the tracts pooled accruing to his
18 interest exclusive of any royalty or over-riding royalty
19 reserved in any leases or assignments thereof, or agreements
20 relating thereto of such tracts, but only after the proceeds
21 applicable to his share equal three hundred percent of the
22 share of such cost applicable to the interest of the carried
23 operator of a leased tract or portion thereof, or b) Two

24

--

1 hundred percent of such cost applicable to the interest of
2 the carried operator of an unleased tract or portion thereof?

3 A. Yes.

4 Q. You recommend that the order provide that
5 any elections by respondents be in writing and sent to the
6 applicant at Cabot Oil and Gas Corporation, 400 Fairway
7 Drive, Suite 400, Corropolis, Pennsylvania 15108, attention
8 Carol Hoak?

9 A. Yes, I do.

10 Q. And should this be the address for all
11 communications with the applicant concerning the force
12 pooling order?

13 A. Yes, it should.

14 Q. Do you recommend that the order provide if
15 no election is...no written election is properly made, then
16 such respondent shall be deemed of electing the cash royalty
17 option in lieu of participation?

18 A. Yes.

19 Q. Should any unleased respondent be given
20 thirty (30) days from the date of the order to file a written
21 election?

22 A. Yes, they should.

23 Q. If a respondent elects to participate, they
24

1 will be given forty-five (45) days to pay the applicant for
2 the proportionate share of the well cost?

3 A. Yes.

4 Q. Does Cabot expect the party electing to
5 participate to pay in advance that party's share of the well
6 cost?

7 A. Yes, they do.

8 Q. Should the applicant be allowed a hundred
9 and twenty (120) days following the recording date of the
10 board order, and thereafter annually on that date until
11 production is achieved, to pay or tender any cash bonus
12 becoming due under the order?

13 A. Yes.

14 Q. Do you recommend the order provide that if
15 the respondent elects to participate but fails to pay the
16 proportionate share of well cost satisfactory to the
17 applicant for payment of these costs, then their election to
18 participate should be treated as having withdrawn and void?

19 A. Yes, I do.

20 Q. Do you recommend the order provide that
21 where a respondent elects to participate but defaults in
22 regard to payment of the well cost, any cash sums becoming
23 payable the respondent be paid within sixty (60) days after
24

1 the last date on which such respondent could have paid or
2 made satisfactory arrangements for the payment of those well
3 costs?

4 A. Yes, I do.

5 Q. Okay. In this case, Mr. Pryor, does the
6 board need to establish an escrow account at this time in
7 which to attribute...to attribute the interest of the unknown
8 John L. Barrett heirs?

9 A. Yes.

10 Q. And who should be named the operator under
11 any force pooling order?

12 A. Cabot Oil and Gas.

13 JIM KISER: Nothing further of this witness at this
14 time, Mr. Chairman.

15 BENNY WAMPLER: Let me ask you one question. In
16 your...looking for the formations---.

17 JIM KISER: Under 3-D...2-D, excuse me. Applicant
18 proposes to drill its permanent location to an approximate
19 depth of fifty-nine hundred (5900) feet on the subject land
20 to test for oil and gas in the Berea.

21 BENNY WAMPLER: Okay. I was looking for where it
22 was identified in Exhibit A. Okay. Thank you, that answers
23 that. Any questions from members of the Board of this
24

1 witness?

2 (No audible response.)

3 BENNY WAMPLER: Call your next witness.

4 JIM KISER: Call Mr. McCormick.

5

6

7 MARK McCORMICK

8 having been duly sworn, was examined and testified as

9 follows:

10 DIRECT EXAMINATION

11 QUESTIONS BY MR. KISER:

12 Q. Could you state your name for the board, who
13 you're employed by, and in what capacity?

14 A. Yes. Mark McCormick. I'm a district
15 engineer for Cabot Oil and Gas.

16 Q. Okay. Now, you have not previously
17 testified before the Virginia Oil and Gas Board. So at this
18 time, I'd ask that you take your resume that has been
19 distributed to the Chairman and the Board members and go
20 through in some detail both your educational and working
21 experience.

22 A. I'm a graduate of West Virginia University
23 of Institute of Technology. Passed the engineer and training

24

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1 test December '79. Cabot has been my one and only employer.
2 You can see I've got quite a bit of field experience and
3 office experience, especially in evaluating drilling
4 prospects, oil and gas reserves.

5 Q. And the area in which this well is being
6 drilled is one of your areas that you handle for Cabot?

7 A. Yes, sir.

8 MR. KISER: Mr. Chairman, we'd ask that Mr.
9 McCormick be accepted as an expert witness in the area of
10 production and operation.

11 BENNY WAMPLER: Accepted.

12 Q. You stated that your responsibilities do
13 include the land involved for Berwind Well 25 and the
14 surrounding areas?

15 A. Yes.

16 Q. And you're familiar with the proposed plan
17 of exploration for this well?

18 A. Yes.

19 Q. And what's the total depth of the well under
20 the plan of development?

21 A. Fifty-nine hundred (5900) feet.

22 Q. And will this be sufficient to penetrate and
23 test any common sources of supply in the subject formations?

24

--

1 A. Yes.

2 Q. And is the applicant requesting the force
3 pooling of conventional gas reserves, not only to include the
4 designated formations, but any other formations excluding
5 coal formations, which may be between those formations
6 designated from the surface to the total depth drilled?

7 A. Yes.

8 Q. And what are the estimated reserves for this
9 unit?

10 A. Five hundred million (500,000,000) cubic
11 feet.

12 Q. Now, are you familiar with the well cost for
13 the proposed well and the plan of development?

14 A. Yes.

15 Q. Has an AFE been reviewed, signed and
16 submitted to the board in conjunction with the application?

17 A. Yes.

18 Q. Was this AFE prepared by an engineering
19 department knowledgeable in the preparation of AFEs and
20 knowledgeable in regard to well cost in this particular area?

21 A. Yes.

22 Q. In your professional opinion, does this AFE
23 represent a reasonable estimate of the well cost for the
24

1 proposed well under the plan of development?

2 A. Yes.

3 Q. Okay. At this time, could you state for the
4 board both the dry hole cost and the completed well cost for
5 Berwind well 25?

6 A. The dry hole cost is estimated to be one
7 hundred and forty-seven thousand three hundred dollars
8 (\$147,300), and the completed well cost is estimated to be
9 two hundred and fifty-eight thousand two hundred dollars
10 (\$258,200).

11 Q. Do these costs anticipate a multiple
12 completion?

13 A. No.

14 Q. So just the Berea?

15 A. Yes.

16 Q. Okay. And does the AFE include a reasonable
17 charge for supervision?

18 A. Yes.

19 Q. In your professional opinion, Mr. McCormick,
20 will the granting of this application be in the best interest
21 of conservation and prevention of waste and the protection of
22 correlative rights?

23 A. Yes.

24

--

1 MR. KISER: Nothing further of this witness at this
2 time, Mr. Chairman.

3 BENNY WAMPLER: Any questions from members of the
4 Board?

5 MAX LEWIS: Have you all ever drilled any wells down
6 to the Devoney in this area?

7 A. Yeah, the...no, the Berea is the primary
8 target and we haven't, to my knowledge, haven't tested
9 anything beneath the Berea.

10 BENNY WAMPLER: In your discussion of formations,
11 are you amending your application early on from what the
12 application said? I thought you were when you were asked the
13 question about...one of your questions about the formations
14 that would be tested.

15 MAX LEWIS: Yeah, he said all above---.

16 JIM KISER: When I asked if the depth would be
17 sufficient to penetrate and test any---.

18 MAX LEWIS: Any above the Berea.

19 A. Then we came back and clarified that we are
20 only doing---we're only going to complete in the Berea.

21 BENNY WAMPLER: I'm just for clarification asking
22 the question. I'm not trying to change anything you're
23 trying to do.

24

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1 A. Berea is the primary target. That's the
2 main producer in this particular area, and this well is an
3 infield well, Berea producers surrounding it.

4 BENNY WAMPLER: Any other questions?

5 MAX LEWIS: I believe you said that test all
6 seams---.

7 JIM KISER: No, the only thing I asked if that depth
8 would be sufficient.

9 BENNY WAMPLER: He said, is the depth sufficient to
10 test those other formations. Any other questions?

11 JIM KISER: What we're trying to do is set a limit.

12 MAX LEWIS: I know, Mr. Kiser.

13 JIM KISER: I'd ask that the application be approved
14 as submitted.

15 MAX LEWIS: I make a motion we approve the
16 application as submitted.

17 MASON BRENT: Second.

18 BENNY WAMPLER: Motion and second, and further
19 discussion?

20 (No audible response.)

21 BENNY WAMPLER: All in favor signify by saying yes.

22 (All members signify yes.)

23 BENNY WAMPLER: Opposed say no.

24

1 (No audible response.)

2 BENNY WAMPLER: You have approval. Thank you. For
3 the Board's information...on behalf of the Board, I want to
4 wish everyone here a happy Thanksgiving, and I personally
5 would like to wish the Board members happy Thanksgiving. We
6 have a busy agenda in December and, of course, we will be
7 continuing item one and I can hopefully get the disbursement
8 position. We will also, as I said, be noticing all the
9 parties, you know, that we are going to do...hopefully be in
10 a position for disbursement using methodology that we
11 discussed. Unless you have anything further, that concludes
12 today's agenda.

13

14 STATE OF VIRGINIA,

15 COUNTY OF WASHINGTON, to-wit:

16 I, SONYA MICHELLE BROWN, Court Reporter and Notary
17 Public for the State of Virginia, do hereby certify that the
18 foregoing hearing was recorded by me on a tape recording
19 machine and later transcribed by me personally.

20 Given under my hand and seal on this the 2nd day
21 of December, 1998.

22 NOTARY PUBLIC

23

24 My commission expires August 31, 2001.

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